

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

MINTON *et al.*,  
Plaintiffs,

v.

INTERCONTINENTAL TERMINALS  
COMPANY LLC, *et al.*,  
Defendants.

AND

*IN RE*: INTERCONTINENTAL  
TERMINALS COMPANY LLC  
DEER PARK FIRE LITIGATION

§  
§  
§  
§  
§  
§  
§  
§  
§  
§  
§  
§

Case No. 4:21-cv-00143

Case No. 4:19-cv-01460

**AGREED MOTION TO APPROVE TRIAL POOL**

In accordance with the Agreed Protocol for the Selection of Plaintiffs for a Discovery Pool, Trial Pool, and Trial (DE 1099), Plaintiffs, through Co-Lead Counsel, and Defendants Intercontinental Terminals Company LLC, NSK Corporation, and NSK Ltd. (collectively, “Defendants” and, with Plaintiffs, the “Parties”) file this agreed motion to approve the trial pool jointly selected by the Parties.

Consistent with the Court’s case management orders, the Parties have been focused on conducting discovery directed toward the Plaintiffs selected for inclusion in the bellwether discovery pool over the last several months. Based on those efforts, the Parties have jointly selected the following trial pool:

1. Faridah Davis
2. Jean Carlo DeLeon

3. Mark Hubert
4. Elizabeth Lizama
5. Francisco Macias
6. Jason Minton
7. Marcia Mitchell
8. Detrek Montgomery
9. Eleazar Perez
10. Manuela Torres

As set out in the Parties' Agreed Motion to Approve Bellwether Discovery Pool (DE 1112), the discovery pool initially consisted of 27 individual and 2 commercial Plaintiffs, asserting claims that were representative of those asserted in the broader litigation. On the individual side, the Parties focused on certain key characteristics in selecting the discovery pool: age, alleged exposure location, nature of claims asserted, and for personal injury claims, nature of alleged injury and extent of medical treatment. *Id.* at 7-9. The characteristics that made the discovery pool representative remain present in the trial pool both from a demographic and claim perspective.

While there are no commercial cases selected for inclusion in the trial pool, the Parties believe that focusing on individual claims for this first phase of bellwether trials is the best approach to "further the overall objectives of the consolidated proceeding," given the prevalence of these claims. DE 1099 at 4. As explained in the Parties' Agreed Motion to Approve Bellwether Discovery Pool (DE 1112), the commercial cases are both much fewer in number and more varied in nature. As a result, the Parties do not believe that

focusing on the commercial cases is the most productive way to progress this consolidated proceeding at this stage. In contrast, continued discovery, expert work, motion practice, and if necessary, trial with respect to the individual claims selected for inclusion in the trial pool will allow the Parties to gain valuable information about the types of claims that overwhelmingly comprise this consolidated proceeding (and that are subject to the Parties' tolling agreement).

For the foregoing reasons, the Parties respectfully request that the Court approve their proposed trial pool.

Dated: January 24, 2023

Respectfully submitted,

TRACEY & FOX LAW FIRM

OF COUNSEL:

By: /s/ Sean Patrick Tracey (by permission)

Shawn P. Fox  
Texas Bar No. 24040926  
Scott C. Greenlee  
Texas Bar No. 24007270  
Lance Nolan Walters  
Texas Bar No. 24085639  
Federal I.D. No. 2006934  
Tracey & Fox  
440 Louisiana, Suite 1901  
Houston, Texas 77002  
Telephone: (713) 495-2333  
Facsimile: (713) 495-2331  
sfox@traceylawfirm.com  
sgreenlee@traceylawfirm.com  
lwalters@traceylawfirm.com

Sean Patrick Tracey  
Attorney-in-Charge  
Texas Bar No. 20176500  
440 Louisiana, Suite 1901  
Houston, Texas 77002  
Telephone: (713) 495-2333  
Facsimile: (713) 495-2331  
stracey@traceylawfirm.com

PLAINTIFFS' CO-LEAD COUNSEL

Russell S. Post  
Texas Bar No. 00797258  
Owen J. McGovern  
Texas Bar No. 24092804  
Beck Redden LLP  
1221 McKinney St., Suite 4500  
Houston, Texas 77010  
Telephone: (713) 951-3700  
Facsimile: (713) 952-3720  
rpost@beckredden.com  
omcgovern@beckredden.com

Dated: January 24, 2023

Respectfully submitted,

FARRAR & BALL, LLP

By: /s/ William R. Ogden (by permission)

William R. Ogden  
Attorney-in-Charge  
Texas Bar No. 24073531  
Federal I.D. No. 2202355  
1117 Herkeimer Street  
Houston, Texas 77008  
Telephone: (713) 221.8300  
Facsimile: (713) 221.8301  
bill@fbtrial.com

PLAINTIFFS' CO-LEAD COUNSEL

Dated: January 24, 2023

Respectfully submitted,

ABRAHAM, WATKINS, NICHOLS,  
AGOSTO, AZIZ & STOGNER

By: /s/ Benny Agosto, Jr. (by permission)

Benny Agosto, Jr.

Texas Bar No. 00794981

Federal I.D. No. 20821

800 Commerce Street

Houston, TX 77002

Telephone: (713) 222-7211

Facsimile: (713) 225-0827

bagosto@awtxlaw.com

PLAINTIFFS' CO-LEAD COUNSEL

Dated: January 24, 2023

Respectfully submitted,

UNDERWOOD LAW OFFICE, INC.

By: /s/ Mark F. Underwood (by permission)

Mark F. Underwood

Attorney-in-Charge

Texas Bar No. 24059341

Federal I.D. No. 2601475

2530 West White Avenue, Suite 200

McKinney, Texas 75071

Telephone: (972) 535-6377

Facsimile: (972) 292-7828

munderwood@underwoodlawoffices.com

PLAINTIFFS' CO-LEAD COUNSEL

Dated: January 24, 2023

OF COUNSEL:

Aaron R. Crane

Texas Bar No. 24050459

HOGAN LOVELLS US LLP

609 Main Street, Suite 4200

Houston, Texas 77002

Telephone: (713) 632-1400

Facsimile: (713) 632-1401

aaron.crane@hoganlovells.com

Respectfully submitted,

HOGAN LOVELLS US LLP

By: /s/ Bruce D. Oakley (by permission)

Bruce D. Oakley

Attorney-in-Charge

Texas Bar No. 15156900

609 Main Street, Suite 4200

Houston, Texas 77002

Telephone: (713) 632-1400

Facsimile: (713) 632-1401

bruce.oakley@hoganlovells.com

ATTORNEYS FOR DEFENDANTS NSK  
CORPORATION, NSK-AKS PRECISION  
BALL COMPANY, NSK PRECISION  
AMERICA, INC., AND NSK LTD.



Dated: January 24, 2023

OF COUNSEL:

Michael S. Goldberg  
Texas Bar No. 08075800  
Federal I.D. No. 01279  
Benjamin Gonsoulin  
Texas Bar No. 24099682  
Federal I.D. No. 2969896  
Kelly Hanen  
Texas Bar No. 24101862  
Federal I.D. No. 3038458  
Elizabeth Furlow  
Texas Bar No. 24109899  
Federal I.D. No. 3402815  
BAKER BOTTS L.L.P.  
One Shell Plaza  
910 Louisiana Street  
Houston, Texas 77002-4995  
Telephone: (713) 229-1234  
Facsimile: (713) 229-1522  
michael.goldberg@bakerbotts.com  
ben.gonsoulin@bakerbotts.com  
kelly.hanen@bakerbotts.com  
elizabeth.furlow@bakerbotts.com

Ivan M. Rodriguez  
Texas Bar No. 24058977  
Federal I.D. No. 4566982  
Marc G. Matthews  
Texas Bar No. 24055921  
Federal I.D. No. 705809  
J. Alan Harrell  
Texas Bar No. 24114609  
PHELPS DUNBAR LLP  
910 Louisiana St., Suite 4300  
Houston, Texas 77002  
Telephone: (713) 626-1386  
Telecopier: (713) 626-1388  
ivan.rodriguez@phelps.com  
marc.matthews@phelps.com  
alan.harrell@phelps.com

Respectfully submitted,

BAKER BOTTS L.L.P.



By: \_\_\_\_\_  
Russell C. Lewis  
Attorney-in-Charge  
Texas Bar No. 24036968  
Federal I.D. No. 569523  
One Shell Plaza  
910 Louisiana Street  
Houston, Texas 77002-4995  
Telephone: (713) 229-1767  
Facsimile: (713) 229-2867  
russell.lewis@bakerbotts.com

ATTORNEYS FOR DEFENDANT  
INTERCONTINENTAL TERMINALS  
COMPANY LLC

**CERTIFICATE OF SERVICE**

I certify that on January 24, 2023, a copy of this document has been served on all counsel of record in the above-captioned cases via the Court's electronic filing system.

  
\_\_\_\_\_  
Russell C. Lewis